

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
December 6, 2000 Session

TAMMY L. M. KLINE, ET AL. v. DANIEL P. EYRICH, ET AL.

**Appeal from the Circuit Court for Knox County
Nos. 3-284-99 and 1-320-99 Hon. Wheeler R. Rosenbalm, Judge**

FILED FEBRUARY 15, 2001

No. E2000-01890-COA-R3-CV

HOUSTON M. GODDARD, P.J., concurring.

I concur in the reasoning and the results reached in the opinion authored by Judge Franks. I would also point out that in oral argument counsel for the widow was asked if he would be entitled to his one-third fee if the only thing he did in his advocacy of this case was to file the original complaint on the widow's behalf and thereafter counsel for the children pursued the prosecution thereof by marshalling the evidence relative to liability and damages and secured the settlement ultimately received. I do not remember specifically the answer given by counsel, but I do remember it was not "Yes."

In fairness, I concede that the assumed facts are not the facts of this case. It was apparent from oral argument that both counsel were of the opinion that they had done the lion's share of the work in securing the settlement, which convinces me that Judge Franks' resolution of the dispute was appropriate.

HOUSTON M. GODDARD, PRESIDING JUDGE